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EXAMINER
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DINH, KHANH Q

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PAPER

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* LEONARD E. MARCHESE

Appeal 2010-005874  
Application 09/613,980  
Technology Center 2400

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Before ROBERT E. NAPPI, ERIC S. FRAHM, and LARRY J. HUME,  
*Administrative Patent Judges.*

NAPPI, *Administrative Patent Judge.*

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) of the rejection of claims 21, 22, 24 through 30, 32, 34 through 37.

We affirm.

## INVENTION

The invention is directed a system for creating an electronic space to promote creative thinking. See Specification page 4. Claim 32 is representative of the claimed invention under appeal and reproduced below:

32. A method for use of a computer based data processing system to enhance creating thinking comprising:
- providing a computer based data processing system;
  - using the computer based data processing system to generate an electronic space represented as a computer generated image of a room viewed on a computer display device;
  - configuring the electronic space to contain activatable links represented as icons within the room, the icons linked to a plurality of data resources, human resources and software applications;
  - selecting at least one activatable icon and linking to the resource selected by the user;
  - and using the resource within the electronic room space;
  - providing an intelligent agent application programmed for interaction with the user within the electronic room space;
  - using the intelligent agent to view and select the activatable links for incorporation in the electronic room space, and
  - providing access to a dispatcher for locating resources and tools for the user.

## REJECTIONS AT ISSUE

The Examiner has rejected claims 21, 22, 24 through 30, 32, 34 through 37 under 35 U.S.C. § 102(e) as anticipated by Kirk (US 6,175,842 B1, Jan. 16, 2001). Answer 3-9.<sup>1</sup>

## ISSUE

Appellant argues on pages 11 through 13 of the Brief that independent claims 21, 26 and 32 recite an intelligent agent which is not taught by Kirk.<sup>2</sup> As Appellant's arguments group all of the claims rejected together we select claim 32 as representative of the group.

These contentions present us with the issue: did the Examiner error in finding that Kirk teaches an intelligent agent programmed for interaction with user within the electronic room space?

## ANALYSIS

We have reviewed the Examiner's rejections in light of Appellant's contentions that the Examiner has erred. Further, we have reviewed the Examiner's response to each of the independent claims argued.

We disagree with Appellant's conclusions. We adopt as our own (1) the findings and reasons set forth by the Examiner in the action from which this appeal is taken and (2) the reasons set forth by the Examiner in

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<sup>1</sup> Throughout this opinion we refer to the Examiner's Answer mailed on June 25, 2009.

<sup>2</sup> Throughout this opinion we refer to the Appellant's Substitute Brief dated December 2, 2009, and the Reply Brief filed August 24, 2009.

the Examiner's Answer in response to Appellant's Appeal Brief. We concur with the conclusion reached by the Examiner.

Specifically, the Examiner has found that Kirk's teaching of a cospace server, item 409 in figure 4, which interacts with the user via the cospace client software, meets the claimed intelligent agent application. Answer 9. We concur with the Examiner, and note that Appellant has admitted that this teaching of "Kirk only supports indirect interaction." Brief 12. While there may be a difference in interaction between the cospace server of Kirk and the intelligent agent disclosed in Appellant's Specification, representative claim 32 merely recites the intelligent agent is programmed for interaction, there is no distinction claimed between directed and indirect interaction. Accordingly, Appellant's arguments have not persuaded us that the Examiner erred in finding that Kirk teaches an intelligent agent programmed for interaction with user within the electronic room space as claimed.

Further, Appellant states, that the cospace server has no means for engaging a dispatcher for locating tools or resources for the user, rather it "merely supports a multiuser virtual environment." Brief 13. In as much as Appellant has presented an additional basis for determining error in the Examiner's rejection; we are not persuaded of error by this statement. The Examiner has made explicit findings directed to this limitation and Appellant has not addressed the Examiner's findings nor identified an error in the Examiner's findings. In addition to the Examiner's findings, we note that Appellant's Specification identifies the system monitor/facilitation as a human presence (a person), and that the system monitor may also be a dispatcher (person). Specification page 5, and 17. Thus, providing a

dispatcher is merely providing access to another person, i.e. a multiuser environment, which is what Appellant states is taught by Kirk.

For the forgoing reasons Appellant has not persuaded us of error in the Examiner's rejection of claim 32 and claims 21, 22, 24 through 30, 34 through 37 grouped with claim 32.

#### CONCLUSION

The Examiner has not erred in rejecting 21, 22, 24 through 30, 32, 34 through 37 under 35 U.S.C. §102.

#### DECISION

The Examiner's rejection of claims 21, 22, 24 through 30, 32, 34 through 37 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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